



## City of Hampton, VA Meeting Minutes City Council

22 Lincoln Street  
Hampton, VA 23669  
[www.hampton.gov](http://www.hampton.gov)

*W. H. "Billy" Hobbs, Jr.  
Will Moffett  
Chris Snead*

*Christopher G. Stuart  
Donnie R. Tuck  
George E. Wallace*

*Molly Joseph Ward, Mayor*

### *Staff:*

*Mary Bunting, City Manager  
Cynthia Hudson, City Attorney  
Katherine K. Glass, CMC, Clerk of Council*

---

Wednesday, October 3, 2012

9:30 AM

Sandy Bottom

---

### **CALL TO ORDER/ROLL CALL**

#### **Molly Joseph Ward presided**

**Present:** W. H. "Billy" Hobbs, Jr., Will Moffett, Chris Snead, Christopher G. Stuart, George E. Wallace

**Absent:** Donnie R. Tuck (Councilman Tuck arrived just after roll call.)

Also present: Mary Bunting, City Manager; James A. "Pete" Peterson, Assistant City Manager; James Gray, Assistant City Manager; Cynthia Hudson, City Attorney; Katherine Glass, Clerk of Council; Chuck Jordan, Police Chief; Karl Daughtrey, Finance Director; Bruce Sturk, Director of Federal Facilities; Robin McCormick, Communications Strategist; and Steve Bond, Senior Assistant City Attorney.

### **Agenda**

The following agenda items were not addressed and no action was taken due to lack of time:

1. 12-0358 Development / Redevelopment Strategy
2. 12-0359 Implementing Master Plans and Hampton First Recommendations
3. 12-0360 Operational and Capital Budget Planning
4. 12-0361 Future Council Work Session Planning

### **Closed Session**

5. 12-0366 Closed session  
pursuant to Virginia Code Sections 2.2-3711A.1, .3 and .7 to (1) discuss personnel matters pertaining to the Police Division; (2) discuss the disposition of publicly-held real property and acquisition of real property for a public purpose in the master plan areas and also non-master plan areas of the city where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the city; and (3) consult with legal counsel regarding specific legal matters pertaining to city council powers and duties and requiring the advice of counsel.

Mayor Ward read the closed session motion language and requested a motion. The motion was made by Vice Mayor Wallace and seconded by Councilwoman Snead.

Following the motion and prior to the vote the following comments were made:

Councilman Tuck stated he understands the sensitivity of the operational issues but some things have taken place that go directly to the Charter which he believes should be discussed publicly. He stated that Council has approved in principle that closed session discussions are not to be discussed afterwards and doing so presents an ethical issue. If Council shares closed session discussion later, it is an ethics violation. Councilman Tuck stated that citizens have asked him about this. He isn't interested in the police operations discussion being discussed in open session but believes the Charter implications should be discussed publicly.

City Attorney, Cynthia Hudson, indicated she'd need a bit more information in order to advise Council.

Councilman Tuck read from Section 3.08 of the City Charter and said that when funds come into the City, by gift or other means, at the end of the year those funds are supposed to be accounted for and there was nothing in last year's FY11 budget about those funds. He reiterated he understands the sensitivity of the operational issues but believes the Charter issues should be discussed in public.

Mayor Ward stated that Council doesn't yet know what the Manager's presentation is so can't know whether or not it touches on those points and suggested that, if something arises which should be discussed in open session, Council can do so.

City Manager Mary Bunting indicated that following closed session there could be a discussion where we would generally agree on what information could be shared in open session.

Vice Mayor Wallace stated that all he knows is what has been in the newspaper and he doesn't know which portion is factual. He suggested a statement relative to what could be shared with constituents be fashioned following the closed session.

Councilman Tuck stated that Council also has the Manager's e-mails about what transpired and that is where his uneasiness arises.

Mayor Ward asked if anyone else had anything for discussion. No one responded and she asked that the Clerk take the vote on the motion.

**APPROVED**

**Motion made by:** Vice Mayor George E. Wallace

**Seconded by:** Councilmember Chris Snead

**Ayes:** 5 - W. H. "Billy" Hobbs, Jr., Chris Snead, Christopher G. Stuart, George E. Wallace, Molly Joseph Ward

**Nays:** 1 - Donnie R. Tuck

**Abstain :** 1 – Will Moffett

**Certification**

## 6. 12-0367 Resolution Certifying Closed Session

**WHEREAS**, the City Council of the City of Hampton, Virginia, has convened a closed session on this date pursuant to an affirmative recorded vote made in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712D of the Code of Virginia requires a certification by the City Council of the City of Hampton, Virginia, that such closed meeting was conducted in conformity with Virginia Law;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Hampton, Virginia, hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed session to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the city council of the city of Hampton, Virginia.

Closed session concluded at 2:48 p.m. and members of the public were allowed into the room. There were two citizens present and two members of the press.

**ADOPTED**

**Motion made by:** Councilmember Donnie R. Tuck

**Seconded by:** Councilmember W. H. "Billy" Hobbs, Jr.

**Ayes:** 7 - W. H. "Billy" Hobbs, Jr., Will Moffett, Chris Snead,

Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

**Nays:** 0

In connection with the motion certifying the closed session, the Mayor made the following statements:

1. Staff briefed the Council in significant detail regarding the genesis, decision making, management, termination and aftermath of the Police Division's cigarette trafficking investigation. Council understands that a full and comprehensive history and evaluation is only possible after the conclusion of the Internal Affairs investigation which is expected to be completed within the month. The consensus of Council is that further public comment on this matter must be deferred until after that time when staff has committed to share with the public all relevant information about the course of the investigation that is prudent and lawful.

2. The Council discussed the legal and financial relationship between the City and the Fort Monroe Authority.

In response to Councilman Tuck's concern about speaking in closed session about disposition of public funds as relates to provisions in the City Charter, the City Attorney Cynthia Hudson stated that one provision of the Charter gives City Council the authority to audit certain public fund accounts and imposes upon Council the authority to appropriate money. While in closed session, Council was advised that there will be an accounting of sorts in connection with the Police undercover cigarette trafficking matter once the Internal Affairs investigation is concluded. As to appropriating funds, she evaluated it and advised the Finance Director when the monies generated were from

churning that the nature of those funds is not the same as the appropriation statement mentioned by the press. The Attorney General's opinions contemplate taxes, customs, etc. for general obligations. The character of monies arising from churning is not the equivalent of public revenues generated by law. There will be a time when the status of that money may be different. If any is to be retained by the City, the appropriation provisions will operate with disposition by Council appropriation and action.

The meeting adjourned at 2:55 p.m.

---

Molly Joseph Ward  
Mayor

---

Katherine K. Glass, CMC  
Clerk of Council

Date approved by Council \_\_\_\_\_